

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHEL PAYNE,)
Plaintiff,) 8:05cv132
vs.) MEMORANDUM AND ORDER
OMAHA POLICE DEPT., et al.,)
Defendants.)

In an Order to Show Cause (filing no. 17), Magistrate Judge F. A. Gossett, questioning whether this case has been abandoned, ordered: “[B]y September 15, 2005, each party shall file a Response to Order to Show Cause explaining why the [Rule 26(f) joint planning] report has not been filed. In the absence of a timely Response by the defendant, the court will entertain a motion for sanctions by the plaintiff. In the absence of a timely Response by the plaintiff or if no one responds by September 15, 2005, this case will be subject, without further notice, to dismissal without prejudice by District Judge Richard G. Kopf, for lack of prosecution. The defendants responded (filing no. 18) that they have not heard from the plaintiff, and they believe the case has been abandoned. There has been no response by the plaintiff, and the deadline has expired.

Therefore, pursuant to NECivR 41.1¹, the plaintiff's complaint and the above-entitled action are dismissed without prejudice. A separate judgment will be entered accordingly.

SO ORDERED.

September 22, 2005.

BY THE COURT:

/s *Richard G. Kopf*
United States District Judge

¹NECivR 41.1 states in pertinent part: "At any time when it appears that any action is not being prosecuted with reasonable diligence the court may dismiss it for lack of prosecution."